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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

DAVID KENT FITCH,

Defendant(s).

2:04-CR-262 JCM (PAL)

ORDER

Presently before court is the matter of *United States v. Fitch*, case no. 2:04-cr-262-JCM-PAL.

Petitioner David Fitch has filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 alleging, *inter alia*, he was denied effective assistance of counsel. (Doc. # 319).

On December 31, 2013, the court entered an order waiving the attorney-client privilege between petitioner and his trial counsel, Lisa Rasmussen, and appellate counsel, Mario Valencia. (Doc. # 328). On the government's motion, the court entered an order on January 16, 2014, waiving the attorney-client privilege between petitioner and David Johnson, who also represented petitioner at pretrial and trial proceedings. (Doc. # 332). That order held, in relevant part, "Mr. Johnson shall, within 45 days of this order, provide the government with an affidavit containing all known information, including any discussions with Defendant, with respect to these issues." (*Id.*).

To date, the government has not filed its response to petitioner's § 2255 motion, nor has it updated the court as to the status of its communications with Ms. Rasmussen, Mr. Valencia, or Mr. Johnson.

The government is hereby ORDERED to apprise the court, in writing, as to whether Ms. Rasmussen, Mr. Valencia, and Mr. Johnson have provided the requested affidavits, and what the status of the government's response is. The government shall have seven (7) days from the issuance of this order to provide a written update to the court.

James C. Mahan
UNITED STATES DISTRICT JUDGE